



## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1485

### Grant Agreements for the Development of Foreign Markets for U.S. Agricultural Commodities

**AGENCY:** Commodity Credit Corporation and Foreign Agricultural Service, U.S.

Department of Agriculture (USDA).

**ACTION:** Final rule.

**SUMMARY:** The Office of Management and Budget (OMB) revised and renumbered certain provisions in its regulation establishing uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities. This final rule amends the USDA regulations on Grant Agreements for the Development of Foreign Markets for U.S. Agricultural Commodities (“MAP regulation”) to make technical corrections to reflect the revised OMB regulations. This final rule also makes several minor changes to the MAP regulation to modify the timing of the evaluation provision, add one additional exemption for a USA Pavilion waiver request, clarify the market representation in the contracting procedures provision, and add certain flexibilities to the origin statement and sample shipment requirements.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Curt Alt, (202) 690–4784, [curt.alt@usda.gov](mailto:curt.alt@usda.gov). Persons with disabilities who require an alternative means for communication of information (e.g., Braille, large print, audiotope, etc.) should contact Angela Ubrey (Human Resources, 202-772-4836) or Constance Goodwin (Office of Civil Rights, 202-379-6431).

**SUPPLEMENTARY INFORMATION:** The MAP regulation, 7 CFR part 1485, refers to and cites various sections of 2 CFR part 200. As a result of amendments that OMB made to 2 CFR part 200 in August 2020, the Commodity Credit Corporation (CCC) has identified a number of instances where technical corrections are necessary. This final rule makes those technical corrections where needed. In addition, this final rule also modifies the timing of the evaluation provision, adds one additional exemption for a USA Pavilion waiver request, clarifies the market representation in the contracting procedures provision, and adds certain flexibilities to the origin statement and sample shipment requirements.

This rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. Accordingly, notice and other public procedure on this rule are unnecessary and this rule may be made effective less than 30 days after publication in the Federal Register. See 5 U.S.C. 553.

### **Catalog of Federal Domestic Assistance**

The program covered by this regulation is listed in the Catalog of Federal Domestic Assistance (CFDA) under the following Foreign Agricultural Service (FAS) CFDA number: 10.601, Market Access Program.

### **E-Government Act Compliance**

CCC is committed to complying with the E-Government Act of 2002 (44 U.S.C. chapter 36), to promote the use of the internet and other information technologies to provide increased opportunities for citizens' access to Government information and services, and for other purposes.

### **Executive Order 12866 and 13563**

Executive Order 12866, "Regulatory Planning and Review," and Executive Order 13563, "Improving Regulation and Regulatory Review," direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to

select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

Executive Order 13563 emphasized the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The requirements in Executive Orders 12866 and 13573 for the analysis of costs and benefits apply to rules that are determined to be significant. It has been determined that this action is not significant for the purposes of Executive Order 12866; therefore, this rule was not reviewed by the Office of Management and Budget.

### **Congressional Review Act**

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs has designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

### **Executive Order 12988**

This rule has been reviewed in accordance with Executive Order 12988, “Civil Justice Reform.” This rule does not preempt State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. This rule will not be retroactive.

### **Executive Order 12372**

Executive Order 12372, “Intergovernmental Review of Federal Programs,” requires consultation with officials of State and local governments that would be directly affected by the proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for the State and local government coordination and review of proposed Federal financial assistance and direct Federal development. This rule will not directly affect State or local officials and, for this reason, it is excluded from the

scope of Executive Order 12372.

### **Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally requires an agency to prepare a regulatory flexibility analysis of any rule that is subject to notice and comment rulemaking under the Administrative Procedure Act (APA) or any other law, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Regulatory Flexibility Act does not apply to this rule because CCC is not required by the APA or any other law to publish a notice of proposed rulemaking with respect to the subject matter of the rule. Therefore, this action is not a rule as defined by the Regulatory Flexibility Act and, thus, is exempt from the provisions of that Act.

### **Executive Order 13132**

This rule has been reviewed under Executive Order 13132, “Federalism.” This rule will not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. This rule does not impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States was not required.

### **Executive Order 13175**

This rule has been reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the

relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. CCC does not expect this rule to have any effect on Indian tribes.

### **Unfunded Mandates**

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA, Pub. L. 104-4) requires Federal agencies to assess the effects of their regulatory actions on State, local, or Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of \$100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternative methods and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 for State, local, or Tribal governments, or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

### **Paperwork Reduction Act**

This final rule contains no new reporting, recordkeeping, or third-party disclosure requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

### **List of Subjects in 7 CFR Part 1485**

Agricultural commodities, Exports.

For the reasons set forth in the preamble, CCC amends part 1485 of title 7 of the Code of Federal Regulations as follows:

### **PART 1485 – GRANT AGREEMENTS FOR THE DEVELOPMENT OF FOREIGN MARKETS FOR U.S. AGRICULTURAL COMMODITIES**

1. The authority citation for 7 CFR part 1485 continues to read as follows:

Authority: 7 U.S.C. 5623, 5662-5663.

2. In § 1485.15, revise paragraph (c)(6) to read as follows:

**§ 1485.15 Operational procedures for brand programs.**

\* \* \* \* \*

(c) \* \* \*

(6) Require: That all product labels, promotional material, and advertising will identify the origin of the eligible commodity as “American,” “Product of the United States of America,” “Product of the U.S.,” “Product of the U.S.A.,” “Product of America,” “Grown in the United States of America,” “Grown in the U.S.,” “Grown in the U.S.A.,” “Grown in America,” “Made in the United States of America,” “Made in the U.S.,” “Made in the U.S.A.,” “Made in America,” or product of, grown in, or made in any state or territory of the United States of America spelled out in its entirety, or other U.S. regional designation if approved in advance by CCC; that such origin identification will be conspicuously displayed in a manner easily observed as identifying the origin of the product; and that such origin identification will conform, to the extent possible, to the U.S. standard of 1/6 inch (.42 centimeters) in height based on the lower case letter “o.” The use of these terms as a descriptor or in the name of the product (e.g., Texas style chili, Bob's American Pizza) does not satisfy the product origin requirement. Phrases “product of,” “grown in,” or “made in” are encouraged, but not required. A MAP Participant that wishes to use an origin statement that varies from those set out in this subsection must submit the proposed statement to CCC for review and must receive approval to use the statement before its use in an activity. A MAP Participant may request an exemption from this requirement on a case by

case basis. All such requests shall be in writing and include justification satisfactory to CCC that this labeling requirement would hinder a MAP Participant's promotional efforts. CCC will determine, on a case by case basis, whether sufficient justification exists to grant an exemption from the labeling requirement. In addition, CCC may temporarily waive this requirement where CCC has determined that such labeling will likely harm sales rather than help them. Such determinations will be announced to MAP Participants via a program notice issued on FAS' website;

\* \* \* \* \*

3. In § 1485.17, revise paragraphs (b)(4) and (18) to read as follows:

**§ 1485.17 Reimbursement rules.**

\* \* \* \* \*

(b) \* \* \*

(4) In-store and food service promotions, product demonstrations to the trade and to consumers, and distribution of product samples (but not the purchase of the product samples), including shipment of samples or other program materials;

\* \* \* \* \*

(18) Where USDA has sponsored or endorsed a U.S. pavilion at a retail, trade, or consumer exhibit or show, whether held outside or inside the United States, MAP funds may be used to reimburse the travel and/or non-travel expenditures of only those MAP Participants located within the U.S. pavilion. Such expenditures must also adhere to the standard terms and conditions of the U.S. pavilion organizer. Upon written request, CCC may temporarily waive this paragraph (b)(18), on a case by case basis, where the trade show is segregated into product pavilions, a company's distributor or importer is located outside the U.S.

pavilion, or when a company can demonstrate that there is a benefit to being located outside the U.S. pavilion. Such waiver will be provided to the MAP Participant in writing; and

\* \* \* \* \*

**§ 1485.22 [Amended]**

4. In § 1485.22(b)(1), remove the citation “2 CFR 200.328(b)(2)” and add in its place the citation “2 CFR 200.329(c)(2)”.
5. In § 1485.23(b), revise the first sentence to read as follows:

**§ 1485.23 Evaluation.**

\* \* \* \* \*

(b) When required by CCC, a MAP Participant shall complete a program evaluation. \* \* \*

\* \* \* \* \*

**§ 1485.29 [Amended]**

6. In § 1485.29(d)(5), remove the word “in-country” everywhere it appears and add in its place “market”.

**§ 1485.34 [Amended]**

7. In § 1485.34(a), remove the citation “2 CFR 200.331” and add in its place the citation “2 CFR 200.332”.
8. In § 1485.36, revise paragraphs (a) introductory text, (a)(1), and (b)(2) to read as follows:



**§1485.36 Suspension and termination of agreements.**

(a) An agreement or subaward may be suspended or terminated in accordance with 2 CFR 200.339 or 200.340. FAS may suspend or terminate an agreement if it determines that:

(1) One of the bases in 2 CFR 200.339 or 200.340 for termination or suspension by FAS has been satisfied; or

\* \* \* \* \*

(b) \* \* \*

(2) Must comply with any closeout and post-closeout procedures specified in the agreement and 2 CFR 200.344 and 200.345.

**Robert Ibarra,**

*Executive Vice President,*

*Commodity Credit Corporation.*

In concurrence with:

**Daniel Whitley,**

*Administrator,*

*Foreign Agricultural Service.*

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